

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Section 73.3580 of the)	MB Docket No. 17-264
Commission’s Rules Regarding Public Notice of)	
the Filing of Broadcast Applications)	
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105
)	
Revision of the Public Notice Requirements of)	MB Docket No. 05-6
Section 73.3580)	

COMMENTS OF LNP MEDIA GROUP, INC.

LNP Media Group, Inc. (“LNP Media Group”) hereby comments on the Commission’s Notice of Proposed Rulemaking, FCC 17-138 (rel. Oct. 24, 2017) (the “*NPRM*”). In the *NPRM*, the Commission solicits comments as to whether to permit broadcast applicants that currently provide written notice in a local newspaper instead to provide that notice online.

LNP Media Group includes a family of print publications ranging from *LNP* (a daily and Sunday publication), *La Voz Lancaster* (Spanish-language), *The Caucus* (state government and politics), to *Lancaster Farming* and community weekly papers. Together, LNP Media Group’s print products reach more than 125,000 subscribers. Moreover, LNP Media Group reaches about 1.2 million visitors a month via LancasterOnline and more than 1.2 million social media users a month. LNP is the third-largest core circulation daily print newspaper in Pennsylvania.

LNP Media Group and its publications, individually and collectively, strongly oppose any change in the Commission’s rules that would permit broadcast applicants that currently provide written notice in a local newspaper to instead provide the notice online.

In the *NPRM*, the Commission notes that Americans receive information differently today than they did decades ago. ¹ The Commission refers to the commonplace nature of the Internet in many consumers' lives and suggests an assumption that because of the Internet's prevalence, consumers may be more likely to expect to see important government information online, rather than in a newspaper of general circulation. This assumption is flawed.

I. Online-Only Public Notices Do Not Engage Citizens

Citizens do not expect to see important government information online, nor do they routinely search for important government information either on a private or government website. Traffic to government websites is a small fraction of the traffic to newspaper websites in the same communities. ² Very few people visit government websites, particularly in comparison to the number of citizens who read a newspaper or visit a newspaper website. ³ If public notices were to move to a government-supported website, such as the FCC's website, the

¹ See *NPRM* at ¶ 6 (“When the Commission adopted its public notice requirements decades ago, Americans obtained information in ways that are vastly different from how they do today. The Internet has become a major part of consumers’ daily lives and now represents a widely used medium to obtain information. Given that Americans today are accustomed to using the Internet to obtain a wide array of information, we believe that viewers and listeners may be more likely to expect to obtain information about broadcast applications online.”) (footnotes omitted).

² See Pennsylvania NewsMedia Association, “Public Notices on Government Websites: Correcting the Record” (“Local newspapers remain the number one source for community news, beating television by nearly 5 times and the Internet by 10 times the audience”; “Seventy-eight percent said that public notices in newspapers are a worthwhile use of government funds.”) (copy attached and available at <http://panewsmedia.org/docs/default-source/save-public-notices-docs/comprehensive-analysis-of-government-claims.pdf?sfvrsn=2>).

³ See *id.* (“In Delaware County ... less than 50,000 unique visitors are reported for both MediaBorough and the county websites, in contrast to the 150,000 daily visitors to the Delaware County Times and Daily News. The same proportions are found in Philadelphia and Lancaster counties.”; 2012 survey documented that “83 % of Pennsylvanians read a newspaper, in print or online, in the past week”).

public would be unlikely to affirmatively search for the information, or to know where to find it. Similarly, if public notices about broadcasters' licensing actions would move only onto broadcasters' websites, the public would be unlikely to see the information. In addition, the critical information may be difficult to find within a broadcaster's website. In a newspaper, the public notice is prominently displayed to call attention to the proposed action or event.

Public notices in newspapers, particularly when supplemented by a newspaper website, are more likely to be read than notices buried somewhere on a government or private company's Internet site. Newspapers – with their combined reach of print and digital readership – typically far outstrip other websites in reaching readers.

Overall, an Internet notice is an inadequate *substitute* for a printed, fixed newspaper notice. Internet notices can *supplement* printed newspaper notices, as evidenced by the Pennsylvania news media industry's long embrace of the Internet to supplement and extend the reach of printed notices. The newspaper industry, both in Pennsylvania and throughout the country, has already made substantial investments in ensuring public notices are available through press-supported websites, so the public can find notices both in print and online without losing the many advantages of a fixed, hard-copy notice. For example, in Pennsylvania, users can access a free, online searchable database for public notices: <https://www.publicnoticepa.com/>

II. Many Citizens Lack Internet Access

Unfortunately, the Internet is not a major part of a significant number of citizens' lives, despite the Commission's assertion of the ubiquitous nature of the technology.

The "Digital Divide" is real. The lack of Internet access and usage among disabled individuals, senior citizens, minorities, and low-income citizens is well-documented and relatively unchanged in recent years. PublicSource, a nonpartisan, nonprofit, media organization,

using U.S. Census data, reported in July 2015 that 28% of Pennsylvania households had no Internet, while 26% of US households had no Internet. 4

Low Internet rates are present in both rural and urban areas. Philadelphia, Pittsburgh, Allentown and Erie, the four most populated cities in Pennsylvania, have been identified as some of the “least-connected” cities in the United States, with up to 30% of residents in some areas lacking Internet access. An August 2017 “Farm Computer Usage and Ownership” report by the United States Department of Agriculture found that 36% of Pennsylvania farmers did not have Internet access. 5

Pennsylvania legislators have recently teamed up for bipartisan legislation to try to increase Internet access in the state. A July 2017 co-sponsorship memorandum by State Representatives Kristin Phillips-Hill and Pam Snyder said, “The shared goal of our 4-piece legislative package is to expand the availability of high-speed broadband internet service in underserved and unserved areas of the Commonwealth. In these locations one can often arrive at schools 30 minutes before the start of the school day and observe parents in their idling cars while their children feverishly work to complete their computer homework assignments using the school Wi-Fi..... because high-speed broadband internet is unavailable in their residential areas. Despite the passage of Act 67 of 1993 and Act 183 of 2004 to ensure all areas of the

4 See Public Source (“At least 1.1 million Pennsylvania homes lack Internet access”) (Jul. 18, 2015) at <http://www.publicsource.org/at-least-1-1-million-pennsylvania-homes-lack-internet-access/>.

5 United States Department of Agriculture, “Farm Computer Usage and Ownership,” (August 2017) at 8, at http://usda.mannlib.cornell.edu/usda/current/FarmComp/FarmComp-08-18-2017_correction.pdf.

Commonwealth would be provided with a modern broadband telecommunications network by 2015, frustratingly this goal remains unmet.” 6

III. Cybersecurity and Archivability

Cyberattacks and deficient Internet security are almost daily occurrences among businesses and government entities. Even attacks on the most sophisticated government websites are common and well-documented. If public notices were permitted to be placed online only, whether on a broadcaster’s website or a government website, any such attack or outage would put a significant number of notices at risk of legal challenge and would significantly disadvantage the public.

Even if a public notice could be posted online without risk of hacking, tampering or technical difficulty, the notice still must be archived in a secure and publicly available format. Public notices published in newspapers are easily archivable. Newspapers, through their publishers, as well as libraries, archive past editions. In archives, public notices can be easily retrieved for years after the date of publication.

IV. Conclusion

In conclusion, the Commission should reject any rule changes that would replace or eliminate the requirements that broadcast applicants provide public notices through publication in a newspaper of general circulation. Despite advances in technology and the continuing growth of the Internet, newspaper notifications remain the best form of public notice.

6 Pennsylvania House of Representatives, House Co-Sponsorship Memoranda (Jul. 31, 2017) at <http://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20170&cosponId=24355>.

Published in newspapers, public notices are independent, archivable, accessible, and verifiable. Notices are not at risk of being lost due to technological changes, and their content is fixed in form and time so that due process is satisfied. Information posted online – whether on a broadcaster’s website or a government website – can serve as an enhancement to the traditional published public notice.

It is in the best interest of good government, fairness to taxpayers, and the promotion of transparency, for public notices to remain in newspapers.

Respectfully submitted,

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***PUBLIC NOTICES ON GOVERNMENT WEBSITES:
CORRECTING THE RECORD***

Replacing public notices in newspapers with postings on government websites would be damaging to government, taxpayers, and transparency. Local government associations and their lobbyists claim that posting on “government websites only” would save money and broaden access to information. Both claims are untrue.

In fact, it will cost government significantly more money to take control of public notices, due to increased IT and personnel costs. Such a move would also disenfranchise a significant percentage of seniors, minorities and low-income Pennsylvanians who do not have Internet access (the “Digital Divide”) and would come at great cost to government transparency and accountability.

Claim: “The Internet is free.” This statement appears in virtually all county and municipal materials relating to this issue. (See League of Cities and Municipalities policy recommendations for Core Communities, November 2010).

Fact: Governments (i.e., taxpayers) will actually spend MORE money to take over public notices – due to unavoidable IT costs for entering and maintaining the business of legal public notices, plus a number of other economic factors, including higher government Information Technology costs: based on the number of municipal entities in Pennsylvania, municipal costs would increase tens of millions of dollars each year for development, software, training and maintenance in order to try to provide real notice of impending government actions to taxpayers. There is also a strong likelihood of increased legal costs in responding to challenges by dissatisfied bidders, community members and others. See Appendix A.

State government has never created or authorized a new program or technology initiative without funding and staffing it. Pennsylvania newspapers publish notices below commercial rates today, and upload daily to an aggregated, searchable, statewide database website, www.publicnoticepa.com, as a value-added service which has cost government and taxpayers \$0.00. Why would government recreate, at taxpayer expense, something the newspaper industry has already developed and implemented, at significant expense?

Claim: “Everyone is on the Internet.”

Fact: The “Digital Divide” is real. The lack of Internet access and usage among seniors, minorities, and low-income citizens is well-documented and relatively unchanged in recent years.

- 22% of Pennsylvanians do not use the Internet
- More than 50% of seniors do not use the Internet
- 33% of those in households earning less than \$30,000 do not use the Internet
- 26%-27% of certain minority populations do not use the Internet
- 48% of adults living with a disability do not use the Internet

Sources: U.S. Census Bureau, Population Survey, 2010; Pew Internet & American Life Project, Dec. 2012

Internet-only posting of public notices would marginalize these people as second-class citizens.

Claim: “Putting public notices only on government websites will get the information to the widest possible number of readers.”

Fact: Newspapers remain the most read, most reliable place to read and establish legal proof of public notices. In this world of media fragmentation, a government-controlled, “Internet only” solution would virtually guarantee that interested citizens could not track the activities of their local governments. If the goal is to reach as many people as possible with notices, newspapers and their websites remain the only solution; they are by far the most frequented source for news.

- 83 % of Pennsylvanians read a newspaper, in print or online, in the past week, according to Scarborough Marketing reports and American Opinion Research conducted in October 2012.
- Local newspapers remain the number one source for community news, beating television by nearly 5 times and the Internet by 10 times the audience.
- In an October 2012 survey of Pennsylvania residents conducted by cell phone and landline, 87% responded that keeping the public informed is an important requirement for government agencies. Seventy-eight percent said that public notices in newspapers are a worthwhile use of government funds.

Fact: Traffic to government websites is a small fraction of the traffic to newspaper websites in the same communities. Very few people visit local government websites, particularly in comparison to the number of citizens who read a newspaper or visit a newspaper website. In Delaware County, for example, less than 50,000 unique visitors are reported for both Media Borough and the county websites, in contrast to the 150,000 daily visitors to the Delaware County Times and Daily News. The same proportions are found in Philadelphia and Lancaster counties.

Spreading notices across thousands of rarely-visited, widely disparate websites across the Commonwealth falls beneath any reasonable bar for providing legal public notification, particularly as compared to having them easily accessible and visible in both the newspaper and on the statewide, searchable website, www.publicnoticepa.com.

Claim: “Independent verification of public notices is unimportant.”

Fact: Newspapers have long provided an independent, verifiable, and permanent record of legal public notification fulfillment – trusted by the court system, business community, special interest groups, and the general public.

Unsuccessful bidders, community activists, and concerned citizens are just some of the potential challengers to inadequate public notice. Newspapers have, for more than one hundred years, provided the necessary independent, verifiable, permanent record that a public notice was accurately and properly placed by government officials. Each public notice placed in a newspaper is accompanied by a “proof of publication,” signed by the publisher and verifiable in court and to the community.

No other state has replaced this tried and true method for verifying government activity with government-controlled, Internet-only notices as proposed by Pennsylvania’s local governments. In addition to the reasons set forth above, Internet-only notices create significant, additional challenges and concerns, including:

- **The unnecessary risk of internal abuse.** Although the large majority of government employees are honest, one only has to read the headlines to know that that is not always the case. Moving public notices from newspapers to government-controlled websites invites cronyism and worse. Why would government want to take control of all public notices in this time when the public consistently demands more government transparency and accountability?
- **Unnecessary and unpredictable website security issues.** Cyber-attacks on even the most sophisticated government websites are common and well-documented. Any such attack or outage would put a significant number of notices at risk of legal challenge, and would significantly disadvantage the public.
- **Costly legal challenges regarding the adequacy of notice and the lack of any legally established way to determine that an online publication is adequate.** An Internet-only, government-controlled public notice system as proposed by Pennsylvania’s local governments has never been implemented or tested. There would be costly legal challenges across the Commonwealth, to determine adequacy of notice, due process, and related issues,

at great cost to individual government agencies and creating uncertainty and delay on a wide range of government projects.

For all of these reasons, we urge you to oppose any legislation seeking to substitute printed publication in newspapers with Internet-only, government website “notice.” The Pennsylvania NewsMedia Association and its members have repeatedly evidenced their commitment to government transparency and willingness to engage in meaningful discussions on these issues.

In closing, the Pennsylvania Chamber of Business and Industry Board of Directors Position Paper on Technology, adopted September 30, 2009, says this about government taking over these types of functions: *“The Chamber opposes publicly owned and-or subsidized entities creating and operating technology infrastructures unless private industry demonstrates an unwillingness or inability to serve a given constituency.”*

Newspapers are willing and able to perform this vital service, and have provided it for more than one hundred years. A government takeover of this critical – and independent - function is not only contrary to the framework of our economic system, it is also *far* more costly to government than the system that has served our Commonwealth for so many years. It will disenfranchise seniors, minorities and low-income citizens, and would do great damage to government transparency and accountability.

It is in the best interest of government, taxpayers, and transparency for public notices to remain in newspapers. Thank you in advance for your careful consideration of this issue.

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APPENDIX A

FISCAL IMPACT OF NEW INFORMATION TECHNOLOGY SPENDING

Posting public notices on a website as the only “proof of publication” is not the same as posting a trash and recycling schedule. Counties, cities and other municipalities would have to become real web content managers, if legal notices were moved online, requiring a substantial financial investment and commitment far in excess of the current systems.

Because current municipal websites are not adequate to reliably handle legal notices, municipal entities would need to contract with a web hosting services provider to secure appropriate hardware and network infrastructure services. These relationships would necessarily have to provide for technical support for system maintenance, system enhancements, and day-to-day operational support, such as help-desk technicians to provide end-user assistance to public and governmental users.

A recent study done in New Jersey by Newspaper Support Services found that the cost of such systems is estimated at about \$1,000 per month per municipality, or \$30,000 per month per county-level website host format. Higher costs at the county level reflect the fact that a higher volume workload and additional complexity in security would lead to increased web hosting costs.

The services and capacity identified below are necessary to ensure the level of data security, integrity and business continuity needed to responsibly handle legal notice posting online, with a searchable database.

High-level system/site requirements for the online Content and Document Management System

1. Create a hosted online site that includes a secure content and document management system. (CDMS) The CDMS should be able to store documents in read-only Rich-Text or PDF format. Contracting entity should indicate if other formats are acceptable for online presentation; list any format limitations for any content. The CDMS is primarily text, but must be capable of accepting graphics such as line drawings. Posting of material on the site would be restricted by security to those with appropriate privileges. Online user-generated content would not be allowed; security must protect the integrity of the site’s content.
2. Online users must be able to print documents displayed on the site.
3. The system must have the ability to provide an email link to report problems with accessibility to any content that a user may attempt to retrieve from the site.

4. The system must be scalable to handle simultaneous viewing of the same content stored within the CDMS. Specify the total number of users (traffic) that the site can sustain in any 15-minute period of time.
5. The system must provide document tracking, data integrity, full audit and reporting capabilities for all content posted on the site.
6. The system must provide the ability to schedule appearances (publication) of content by specific date ranges, including the ability to archive previously published content.
7. The system must include full search capabilities for the CDMS.
8. Include all design aspects (graphics, typography, etc). For the hosted system, describe system architecture, back-up capabilities, etc. The site shall have uptime of 98% of the time, 24 hours per day, 365 days per year.
9. Specify any additional licensing required for ancillary functionality, such as online printing, email forwarding, etc.